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OFFICE OF PETITIONS

In re Application of :
Bain et al. :
Application No. 10/674,684 :
Filed: September 29, 2003 : ON PETITION
Attorney Docket Number: :
554792000401 :

This is a decision on the Petition Under 37 CFR 1.182 to Correct Response to Notice of Omitted Item(s) Filed September 10, 2004, filed November 2, 2004.

The petition is **granted**.

The application was filed on September 29, 2003. However, on August 16, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, noting that the application had been accorded a filing date; however, pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification appeared to have been omitted from the application.

In response, Petitioner files a Petition to Show Receipt of Item(s) in Response to [] Notice of Omitted Item(s) of 8/16/04, on September 10, 2004, requesting the above-identified application be accorded a filing date of September 29, 2003, including pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification.

In that petition, Applicant asserted that pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification were included among 159 pages of Specification, Claims and Abstract filed initially, on September 29, 2003, and were received by this Office as evidenced by the return-receipt postcard. In support, Petitioner provides a copy of a return receipt postcard acknowledging receipt of, *intern alia*, 67 pages of Specification, Claims and Abstract, filed on March 29, 2004.

A review of the return receipt postcard reveals that Petitioner was correct. The postcard acknowledged receipt of 159 pages of Specification by this Office on September 29, 2003. Petitioner also re-submitted what was asserted to be pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, with that petition.

Based upon Applicant's assertion, and the MPEP § 503, the petition was granted.

The instant petition

Applicant files the instant petition and now avers that the copy of pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification filed on September 10, 2004 were that of priority application 09/283,783, and not that of the above-identified application. Applicant seeks to substitute the pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification of the above-identified application for the pages of the priority application.

Accordingly, the petition is granted. The copy of pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, supplied with the instant petition on November 2, 2004, will be used for examination purposes.

Deposit account 03-1952 has been charged the petition fee of \$130.00 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of September 29, 2003, and an indication that pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, were included among 159 pages of Specification that were present on filing on September 29, 2003, using the copy of pages 53, 59, 61, 63, 64, 79, 91, 102, and 132 of the specification, supplied with the instant petition on November 2, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods

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